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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF448

Notice of Availability of the Final Programmatic Environmental Impact Statement and Restoration Plan to Compensate for Injuries to Natural Resources in Portland Harbor, Oregon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Final Programmatic Environmental Impact Statement and Restoration Plan.

SUMMARY: In this notice, NMFS announces the availability of the Programmatic Environmental Impact Statement and Restoration Plan to Compensate for Injuries to Natural Resources in Portland Harbor, Oregon.

The National Environmental Policy Act (NEPA) of 1960, requires an assessment of any Federal action that may impact the environment, which, in this case, is the selection of a Restoration Plan. The purpose of the PEIS/RP is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to restoration in the Portland Harbor area.

ADDRESSES: Obtaining documents: You may download the PEIS/RP at

https://www.fws.gov/oregonfwo/Contaminants/PortlandHarbor/Documents/201706_FIN

AL_PEIS.pdf. Or you may request a CD of the document from Megan Callahan Grant, NOAA Restoration Center, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Megan Callahan Grant at (503) 231-2213 or e-mail at *megan.callahan-grant@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NOAA, the Department of the Interior (U.S. Fish and Wildlife Service), the Oregon Department of Fish and Wildlife, the Nez Perce Tribe, the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Siletz Indians, and the Confederated Tribes of the Grand Ronde Community of Oregon are collectively referred to as the Trustee Council for this case. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*; the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2701 *et seq.*; the Clean Water Act (CWA), 33 U.S.C. 1251; the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan [NCP]), 40 CFR 300, Subpart G; Executive Orders 12580 and 12777; and other applicable Federal and state laws and regulations provide a legal framework for addressing injuries to the nation's natural resources resulting from releases of hazardous substances and discharges of oil.

In January of 2007, the Portland Harbor Trustee Council released a Pre-Assessment Screen (PAS) for the Portland Harbor Superfund site. The PAS concluded that natural resources in the area have been affected or potentially affected from releases or discharges of contaminants. Based on the conclusions of the PAS, the Portland Harbor

Trustee Council determined that proceeding past the pre-assessment phase to a full natural resource damage assessment was warranted.

Exposed living natural resources include, but are not limited to: (1) aquatic-dependent mammals such as mink and river otter, and species they depend on as prey items; (2) migratory birds, including osprey, bald eagle, mergansers and other waterfowl, great blue heron, spotted sandpiper and other shorebirds, cliff swallow, belted kingfisher, and other species; (3) threatened and endangered species; (4) anadromous and resident fish, including salmon and steelhead; (5) reptiles and amphibians; (6) aquatic invertebrates; (7) wapato and other aquatic plants.

Exposed habitat types and water natural resources include wetland and upland habitats, groundwater, and surface water. The services that are provided by these potentially affected natural resources include, but are not limited to: (1) habitat for trust resources, including food, shelter, breeding, foraging, and rearing areas, and other factors essential for survival; (2) consumptive commercial resource use such as commercial fishing; (3) consumptive recreational resource use such as hunting and fishing; (4) non-consumptive uses such as wildlife viewing, photography, and other outdoor recreation activities; (5) primary and secondary contact activities such as swimming and boating; (6) cultural, spiritual, and religious use; (7) option and existence values; (8) traditional foods.

An Assessment Plan was completed in June of 2010. Based on this plan, scientific literature and studies being conducted by the Trustee Council seek to document injuries from hazardous substances found in Portland Harbor. The objective of these studies is to demonstrate (1) how the contamination has harmed the organisms that

inhabit the riverine sediments, (2) how the contamination has harmed the fish and wildlife that come into contact with the contaminated sediments or that eat contaminated prey items, and (3) how the harm to the natural resources has impacted the people that use these resources. Concurrent with the damage assessment, the Trustee Council is conducting restoration planning.

By identifying criteria and guidance to be used in selecting feasible restoration projects, the Restoration Plan provides a framework to maximize the benefits of restoration projects to the affected resources and services in the defined areas of the Lower Willamette River. The Trustee Council analyzed three alternatives including: (1) (preferred) integrated habitat restoration actions that will benefit multiple species and services (those species listed above as potentially affected by releases of hazardous substances, such as salmon and resident fish, mammals such as mink and river otter, and aquatic-dependent birds such as osprey and bald eagle); (2) species-specific restoration actions (for example, augmenting a species population through artificial production); and (3) a no-action alternative (no action takes place and the public is not compensated). Two additional alternatives for restoration were considered but not moved forward for detailed study because they did not meet the purpose and need for the project. The first was an alternative without any defined geographic boundary, and the second was an alternative including a requirement that all restoration would occur within the defined geographic area called the Superfund Study Area.

The Draft Portland Harbor Programmatic EIS and Restoration Plan was released for public comment on July 9, 2012. The comment period ended October 8, 2012, and a public Open House meeting was held on July 17, 2012.

Comments were received from 21 parties, resulting in 193 individual comments. The Final PEIS includes responses to these comments as Appendix F.

The Trustee Council has opened an Administrative Record (Record). The Record includes documents that the Trustees relied upon during the development of the Final Restoration Plan and Final PEIS. The Record is on file at the offices of Parametrix, a contractor to NOAA. The Record is also available at:

<http://www.fws.gov/oregonfwo/contaminants/PortlandHarbor/default.asp>

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to NEPA regulations at 40 CFR 1505.2. Accordingly, the ROD for the Final RP/PEIS will provide and explain the Trustees' decisions regarding the selection of a preferred alternative. The Trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the **Federal Register** announcing the availability of the Final RP/PEIS (40 CFR 1506.10).

Dated: June 15, 2017.

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Deputy Director, Office of Habitat Conservation,

National Marine Fisheries Service.

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